

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature Second Regular Session - 2012

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 670, As Amended

BY EDUCATION COMMITTEE

AN ACT

RELATING TO EDUCATION; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 57, TITLE 33, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE DEFINITIONS, TO ESTABLISH PROVISIONS RELATING TO A TAX CREDIT FOR CONTRIBUTIONS MADE TO A SCHOLARSHIP GRANTING ORGANIZATION, TO ESTABLISH PROVISIONS RELATING TO THE DUTIES AND RESPONSIBILITIES OF SCHOLARSHIP GRANTING ORGANIZATIONS, TO ESTABLISH PROVISIONS RELATING TO THE DUTIES AND RESPONSIBILITIES OF THE STATE DEPARTMENT OF EDUCATION, TO PROVIDE FOR RULES, TO ESTABLISH PROVISIONS RELATING TO THE DUTIES AND RESPONSIBILITIES OF PARTICIPATING SCHOOLS; AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 57, Title 33, Idaho Code, and to read as follows:

CHAPTER 57

IDAHO ELEMENTARY AND SECONDARY SCHOOL SCHOLARSHIP ACT

33-5701. SHORT TITLE. This act shall be known and cited as the "Idaho Elementary and Secondary School Scholarship Act."

33-5702. DEFINITIONS. The following terms have the following meanings for the purposes of this act:

(1) "Department" means the state department of education.

(2) "Educational scholarships" means grants to students to cover all or part of the tuition and fees at a qualified nonpublic school located in the state of Idaho.

(3) "Eligible student" means a student who:

(a) Is a member of a household whose total annual income during the year before he or she receives an educational scholarship under this program does not exceed an amount equal to two hundred and fifty percent (250%) of the income standard used to qualify for a free or reduced price lunch under the national free or reduced price lunch program as described in 42 U.S.C. section 1751 et seq. Once a student has received a scholarship under this program, the student will remain eligible, regardless of household income, until they graduate from high school or reach twenty-one (21) years of age, whichever occurs first;

(b) Attended a public school in the preceding semester, is entering kindergarten or first grade, or is starting school in Idaho for the first time;

(c) Resides in Idaho and attends a school located in Idaho while receiving an educational scholarship.

1 (4) "Parent" includes a guardian, custodian or other person with au-
2 thority to act on behalf of the child.

3 (5) "Program" means the Idaho elementary and secondary school scholar-
4 ship program.

5 (6) "Qualified school" means a nonpublic elementary and/or secondary
6 school in Idaho that complies with all of the requirements of the program.

7 (7) "Scholarship granting organization" means an organization that
8 complies with the requirements of this program and provides education schol-
9 arships to students attending qualified schools of their parents' choice.

10 33-5703. SCHOLARSHIP PROGRAM -- TAX CREDIT. Beginning with the tax
11 year commencing January 1, 2013, and for eligible contributions made on and
12 after that date:

13 (1) A taxpayer who files a state income tax return pursuant to sections
14 63-3024, 63-3025 or 63-3025A, Idaho Code, and is not a dependent of another
15 taxpayer may claim a credit for a contribution made to a scholarship granting
16 organization.

17 (2) The credit may be claimed by an individual taxpayer or a married
18 couple filing jointly in an amount equal to the total contributions made to
19 a scholarship granting organization during the taxable year for which the
20 credit is claimed.

21 (3) An individual taxpayer or a married couple filing jointly may carry
22 forward a tax credit under this program for three (3) years.

23 (4) A credit may be claimed by any taxpayer that is a legal business en-
24 tity including limited and general partnerships, corporations, and limited
25 liability corporations in an amount equal to the total contributions made to
26 a scholarship granting organization for educational scholarships during the
27 taxable year for which the credit is claimed up to fifty percent (50%) of the
28 business entity's tax liability.

29 (5) A business taxpayer may carry forward a tax credit under this pro-
30 gram for three (3) years.

31 (6) The credit authorized by this section shall not be used to reduce
32 the tax liability of any taxpayer to less than zero.

33 (7) In no event shall the aggregate amount of tax credits allowed pur-
34 suant to this section exceed ten million dollars (\$10,000,000) per tax year,
35 except as provided below.

36 (a) If the amount of credit allowed pursuant to this section reaches an
37 amount equal to ten million dollars (\$10,000,000) for tax year 2013, any
38 amounts due for qualified credits exceeding that amount shall be car-
39 ried over to the next tax year.

40 (b) In any tax year following 2013, the amount of credit provided for
41 pursuant to this section shall be revised from ten million dollars
42 (\$10,000,000) to reflect any percentage change in the consumer price
43 index from the immediately preceding year. In the event the credit
44 allowed during a tax year reaches the total annual credit authorized
45 by this section, any amounts due for qualified credits exceeding such
46 amount shall be carried over to the next tax year.

47 (8) The department shall allow the tax credits on a first come, first
48 served basis.

1 33-5704. SCHOLARSHIP GRANTING ORGANIZATIONS -- DUTIES AND RESPONSIBILITIES. (1) Each scholarship granting organization shall:

2 (a) Notify the state department of education of its intent to provide
3 educational scholarships to eligible students attending qualified
4 schools.

5 (b) Be located in Idaho and demonstrate to the department that it has
6 been granted exemption from the federal income tax as an organization
7 described in section 501(c)(3) of the Internal Revenue Code.

8 (c) Provide a department approved receipt to taxpayers for contribu-
9 tions made to the organization.

10 (d) Ensure that at least ninety percent (90%) of its revenue from do-
11 nations is spent on educational scholarships, and that all revenue from
12 interest or investments is spent on educational scholarships. Revenue
13 received by scholarship granting organizations for which no tax credit
14 was received by the donor is not required to be used for scholarships or
15 tuition grants.

16 (e) Provide educational scholarships to eligible students attending
17 qualified schools up to the total cost of tuition and fees without lim-
18 iting availability only to students of one (1) school.

19 (f) Be prohibited from awarding or restricting the award of a scholar-
20 ship to a specific eligible student at the request of a donor.

21 (g) Ensure that educational scholarship recipients meet all eligibil-
22 ity requirements outlined in this act.

23 (h) Distribute periodic scholarship payments as checks made out to
24 a student's parent or guardian and delivered to the qualified school
25 where the student is enrolled.

26 (i) Ensure that scholarships are portable during the school year and
27 can be used at any qualified school that accepts the eligible student
28 according to a parent's wishes. If a student moves to a new qualified
29 school during a school year, the scholarship amount may be prorated.

30 (j) Demonstrate financial accountability by submitting a financial in-
31 formation report for the organization that complies with generally ac-
32 cepted uniform financial accounting standards and conducted by a certi-
33 fied public accountant.

34 (k) Not provide educational scholarships for students to attend any
35 school with paid staff or board members, or relatives thereof, in common
36 with the scholarship granting organization.

37 (l) Be permitted to transfer scholarship funds to another approved
38 scholarship granting organization that complies with this act.

39 (2) A scholarship granting organization shall publicly report to the
40 state department of education each year the following information prepared
41 by a certified public accountant regarding their grants in the previous cal-
42 endar year:

43 (a) The name and address of the scholarship granting organization;

44 (b) The total number and total dollar amount of contributions received
45 during the previous calendar year; and

46 (c) The total number and total dollar amount of educational scholar-
47 ships awarded during the previous calendar year.

48 (d) Upon request, scholarship granting organizations shall provide the
49 department with documentation demonstrating that educational scholar-
50

1 ship recipients meet the eligibility requirements outlined in this act.
 2 All personal information reported under this subsection shall be confi-
 3 dential taxpayer information.

4 33-5705. STATE DEPARTMENT OF EDUCATION -- DUTIES AND RESPONSIBILI-
 5 TIES. (1) The state department of education shall adopt rules and procedures
 6 consistent with this act as necessary to implement the program.

7 (2) The state department of education shall provide a current list of
 8 all approved scholarship granting organizations on its website.

9 (3) The department shall provide a standardized format for a receipt
 10 to be issued by a scholarship granting organization to a taxpayer to indi-
 11 cate the value of a contribution received. The state department of education
 12 shall require a taxpayer to provide a copy of this receipt when claiming the
 13 Idaho elementary and secondary school scholarship tax credit.

14 (4) The department shall provide a standardized format for scholar-
 15 ship granting organizations to report the information required in section
 16 33-5704, Idaho Code.

17 (5) The department shall have the authority to conduct either a finan-
 18 cial review or audit of a scholarship granting organization if possessing
 19 evidence of fraud.

20 (6) The department may bar a scholarship granting organization from
 21 participating in the program if the department establishes that the schol-
 22 arship granting organization has intentionally and substantially failed to
 23 comply with the requirements provided for in section 33-5704, Idaho Code.

24 (7) The department shall provide scholarship granting organizations
 25 with written notice of such failure to comply with any requirements of this
 26 act by certified mail and allow ninety (90) days from the receipt of such no-
 27 tice to correct all deficiencies.

28 (8) Upon failure to correct all deficiencies within ninety (90) days,
 29 the department may require such scholarship granting organizations to be re-
 30 moved from the list of approved scholarship granting organizations and bar
 31 such scholarship granting organizations from participating in the program.

32 (9) If the department bars a scholarship granting organization from the
 33 program, it shall notify affected scholarship students and their parents of
 34 this decision as quickly as possible.

35 33-5706. PARTICIPATING SCHOOLS -- DUTIES AND RESPONSIBILI-
 36 TIES. (1) All participating nonpublic schools that accept educational
 37 scholarships under this act shall:

38 (a) Be required to operate in Idaho;

39 (b) Hold a valid occupancy permit if required by their municipality;

40 (c) Certify that they will comply with federal nondiscrimination re-
 41 quirements outlined in 42 U.S.C. section 1981;

42 (d) Provide academic accountability to parents of students in the pro-
 43 gram by regularly reporting to the parents on the student's progress;

44 (e) Comply with all state laws that apply to nonpublic schools regard-
 45 ing criminal background checks for employees and exclude from employ-
 46 ment any people not permitted by state law to work in a nonpublic school;
 47 and

1 (f) Comply with all health and safety laws or codes that apply to non-
2 public schools.

3 SECTION 2. This act shall be in full force and effect on and after Jan-
4 uary 1, 2013.